



Department of Pesticide Regulation



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California Notice to Registrants 2004-3, revised

March 12, 2004

To: Pesticide Registrants

Subject: Warranty and Liability Statements on Labels

Pesticide product labels may contain warranty or liability statements regarding use of the product. Most of these are within the limits allowed by federal law and by California state law. However, it has been brought to our attention that some registrants have extended the statements to relieve or contradict the uses approved on the label. This notice states the California law and the Department of Pesticide Regulation (DPR) position on this issue.

This revised notice replaces the version dated February 19, 2004. The only revision is deletion of the remedy regarding purchase price in the section on unacceptable label statements.

California Law limits the Warranty/Liability Statements

The California Food and Agricultural Code (FAC) Section 12854 states that no limitations of warranty by the seller shall exclude or waive the implied warranty that the pesticide corresponds to all claims and descriptions that the registrant has made in respect to it in print. This section also states that no limitations of warranty by the seller shall exclude or waive the implied warranty that the pesticide is reasonably fit for use for any purpose for which it is intended according to any printed statement of the registrant. Labels which have statements that conflict with this section are not acceptable.

Signed Waiver of Liability is not Allowed as part of the Label

A waiver of liability requiring signature by the pesticide buyer or user is not allowed as part of the pesticide label. This cannot be made part of a pesticide label, including regular registered products and those registered under Section 24c.

Examples of Statements (or similar wording) that are Unacceptable on the Label

"A waiver of liability statement must be agreed to in writing as a condition of sale or use."

"This product when used as instructed on the label may result in poor pest control, crop injury, or illegal residues." or "When used according to the label, the grower or user assumes all risk of crop injury or yield reduction."



"The company is released from all liability and/or indemnification by the user or grower."

"Opening this product means that the grower or user accepts the company's waiver of liability for injury when product is used according to the label."

Examples of Statements (or similar wording) Allowed on the the Label

"Failure to follow directions for use on this label may result in poor pest control, crop injury, or illegal residues."

"This company warrants that the product conforms to specifications on the label and is reasonably fit for the intended purpose referred to on the label. This company makes no other express or implied warranty."

"This company recommends that the user or grower test this product on a portion of the crop to determine suitability for the intended use."

Background

Most warranty and liability statements found on labels are within the criteria allowed by state and federal law. Recently, however, there has been a trend by registrants toward expanding these label statements beyond what is acceptable. Liability waivers and other warranty statements that conflict with FAC Section 12854, as indicated above, cannot be made a part of the pesticide label in California. The scope of this notice does not include any other liability agreements, not on the label, that your company may have with dealers and customers; you should consult your own legal counsel regarding those types of waivers and agreements.

Action by the Registrant

Review your labels for appropriate label statements. If your label currently contains unacceptable statements, please submit revised labels to DPR before the renewal of your product for 2005. These revisions can be submitted through the DPR Notification Process. Note that any label revision must first be submitted to U.S. EPA.

If you have questions, please contact your DPR registration specialist in the Registration Branch.

Original signed by Barry Cortez

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